



**Bill C-65 and the
new *Work Place
Harassment and
Violence Prevention
Regulations***

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Bill C-65: An Overview

Under the *Canada Labour Code* (Code) there are separate regimes to deal with workplace violence and sexual harassment, creating an imbalance in treatment of these issues and coverage of different populations:

- Violence is dealt with under the occupational health and safety provisions (Part II)
- Sexual harassment is dealt with under the labour standards provisions (Part III)

Bill C-65 creates one regime under Part II of the Code to:

- Deal with a full spectrum of reprehensible behaviours, ranging from teasing and bullying to sexual harassment and physical violence;
- Require employers to respond, record, and report harassment and violence, and support employees affected by them; and
- Provide strong privacy protections to ensure that complaints about harassment and violence are treated confidentially

The new regime applies to:

- Federally regulated private-sector industries;
- Federal public service (currently only covered by violence provisions in the Code);
- Ministerial exempt staff (clarifies coverage);
- Employees on the Hill and in constituency offices such as MP's staff, employees of the House of Commons, the Senate, the Library of Parliament; and,
- Interns employed in these sectors



Key Amendments to the *Canada Labour Code*

- New definition of **harassment and violence**: any action, conduct, or comment, including of a sexual nature, that can reasonably be expected to cause offence, humiliation or other physical or psychological injury or illness to an employee, including any prescribed action, conduct or comment.
- Amends purpose of Part II to explicitly include the prevention of harassment and violence, and physical and psychological injuries and illnesses.
- Requires employers to follow steps of a resolution process within specific timelines when responding to notifications of harassment and violence.
- Requires employers to ensure that all employees receive harassment and violence prevention training.
- Adds privacy protections.
- Adds new employer obligations towards former employees.



Work Place Harassment and Violence Prevention Regulations: An Overview

The new standalone *Work Place Harassment and Violence Prevention (WPHVP) Regulations* will replace Part XX (Violence Prevention in the Work Place) of the *Canada Occupational Health and Safety Regulations (COHSR)*.

Employers will be required to follow each step of the resolution process within the timelines outlined in the Regulations when responding to all notifications of harassment and violence.

It is a key obligation of the employer to work jointly with their workplace's policy committee/workplace committee/health and safety representative to:

- develop a work place harassment and violence prevention policy;
 - conduct work place assessments;
 - develop and implement harassment and violence prevention training; and,
 - implement recommendations stemming from a work place investigation or a review of a work place assessment.
- Complaints can be made to the Labour Program when the process and/or timelines set-out in the Regulations have not been adhered to.
 - Employees will be able to file grievances and complaints with the Canadian Human Rights Commission in addition to the new processes.



Work Place Harassment and Violence Prevention Regulations & the Prohibited Grounds of Discrimination

Training

- Employers are required to develop or identify and deliver training that describes the relationship between work place harassment and violence and the prohibited grounds of discrimination outlined in the *Canadian Human Rights Act* [para. 12(2)(b)].

Investigator Qualifications

- Employers are required to select an investigator that has knowledge of the *Canadian Human Rights Act* [para. 28(1)(c)].

Reporting Requirements

- Employers are required to report annually to the Minister of Labour the number of harassment and violence occurrences that fell under each prohibited ground of discrimination outlined in the *Canadian Human Rights Act* [subpara. 36(d)(iv)].



Employer Obligations: Key Terms

Notification of occurrence: notification to the employer that there has been an occurrence of harassment and violence in the work place.

Designated Recipient: a work unit in a work place or person that is designated by an employer as the recipient to whom notice of an occurrence may be provided.

Principal party: the employer or employee who is the object of the occurrence of harassment and violence.

Responding party: the person who is alleged to have been responsible for the occurrence in a notice of occurrence provided to the employer.

Applicable partner: a reference to the policy committee or, if there is no policy committee, as a reference to the work place committee or the health and safety representative.

Investigator: replaces the term competent person. Qualifications outlined in section 28 of the Work Place Harassment and Violence Prevention Regulations.



Key Employer Obligations

Elements of the Regulations	Employer Obligations
<p>Work Place Assessment</p>	<ul style="list-style-type: none"> • Carry out a work place assessment with the applicable partner, including identifying the risk factors outlined in section 8 of the Regulations. • Develop and implement preventive measures within six months after the risk factors are identified. • Jointly review the work place assessment and, if necessary, update it every three years. • Jointly review and, if necessary, update the work place assessment with the work place committee or the health and safety representative if: <ul style="list-style-type: none"> • the responding party in a notice of occurrence is not an employee or the employer; or, • the principal party chooses to end the resolution process and the occurrence is not resolved.
<p>Work Place Harassment and Violence Prevention Policy</p>	<ul style="list-style-type: none"> • Jointly develop with the applicable partner a work place harassment and violence prevention policy. • Make policy available to all employees. • Jointly review and, if necessary, update policy at least once every three years and after change to an element of policy.



Key Employer Obligations: Continued

Elements of the Regulations	Employer Obligations
Emergency Procedures	<ul style="list-style-type: none">• Jointly develop with the applicable partner emergency procedures to use if an occurrence of harassment and violence poses an immediate danger to the health and safety of an employee, or there is a threat of one.• Make emergency procedures available to all employees.• Jointly review and update, if necessary, the emergency procedures after each time they are used.
Work Place Harassment and Violence Prevention Training	<ul style="list-style-type: none">• Jointly develop or identify with the applicable partner the training on work place harassment and violence.• Jointly review and, if necessary, update the training at least once every three years and following any change to an element of the training.• Provide all employees with the training within:<ul style="list-style-type: none">• three months after the day on which their employment begins (for new employees).• one year after the day on which the Regulations come into force (for existing employees).• Provide the designated recipient with the training.• Ensure the employer undergoes the training within one year after the day on which the Regulations come into force.

Key Employer Obligations: Continued

Elements of the Regulations	Employer Obligations
Support Services	<ul style="list-style-type: none"> • Make available to all employees information respecting the medical, psychological or other support services that are available within their geographical area.
When Notification of Occurrence is Received	<ul style="list-style-type: none"> • Contact the principal party or non-anonymous witness to respond to their notice of occurrence within seven days after the day on which notice is provided • Initiate negotiated resolution with principal party no later than 45 days after the day on which the notice is provided and conduct joint review of notice of occurrence against definition of harassment and violence with principal party. • Provide monthly status updates regarding the status of the resolution process until the resolution process is complete.
When Conciliation is Requested	<ul style="list-style-type: none"> • Allow principal and responding party to participate in conciliation if both agree to conciliation and on the person to facilitate it.
When an Investigation is Requested	<ul style="list-style-type: none"> • Provide notice that an investigation is to be carried out. • Select a person to act as an investigator from the list developed jointly with the applicable partner, if such a list exists.



Key Employer Obligations: Continued

Elements of the Regulations	Employer Obligations
When Investigation is Requested – Cont’d	<ul style="list-style-type: none"> • If there is no jointly-developed list, select a person to act as an investigator that is jointly agreed upon with the principal party and the responding party. • If parties cannot come to agreement within 60 days, select a person from the roster of investigators managed by CCOHS. • Provide the investigator with all information that is relevant to the investigation.
When Investigator’s Report is Received	<ul style="list-style-type: none"> • Provide a copy of the report to the principal party, responding party, the work place committee or health and safety representative and, if applicable, the designated recipient. • Jointly determine with the work place committee or the health and safety representative the recommendations to be implemented from the investigator’s report. • Implement the recommendations within one year after the day on which notice of the occurrence was provided.
Reporting	<ul style="list-style-type: none"> • Provide annual report to the Minister on or before March 1 of each year, starting in 2021. • Report a fatality resulting from an occurrence of harassment or violence to the Minister within 24 hours.



Stakeholder Engagement

- *Work Place Harassment and Violence Prevention Regulations* were developed through tripartite consultations:
 - Nine round-tables across Canada
 - Six WebExs
 - Participated in 19 additional consultation events
 - Online consultation paper and associated survey: over 18,000 hits to the websites. 1042 individuals completed the survey and 64 written submissions were received.
- The draft Regulations were pre-published in *Canada Gazette*, Part I in spring 2019.
- The Regulations were published in the *Canada Gazette*, Part II on June 24, 2020, with a **coming-into-force date of January 1, 2021** in order to give stakeholders time to prepare.



Resources to Support Implementation

- The Work Place Harassment and Violence Prevention Fund (\$3.5M/year) was established to support implementation and help guide culture change around harassment and violence in the workplace.
- The Labour Program has established two tripartite working groups to develop a Roster of Investigators, and an Interpretation, Policies and Guidelines (IPG) guidance document that will assist with interpreting various aspects of the Act and Regulations.



Employer Reporting Requirements to the Federal Minister of Labour

- Hazard Occurrence Investigation Report (HOIR)(Form LAB1070)
- Employer Annual Hazard Occurrence Report (EAHOR)(Form LAB1009)
- Workplace Committee Report (Form LAB1058)



Connect with us...

The Labour Program is working to determine the most effective ways to connect with stakeholders and partners.

Social media, Twitter, LinkedIn, Facebook

Publish prosecutions online

Linking information on the Canada.ca website (Health and Safety)

1-800-641-4049 – Labour Toll Free Line



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